CITY
OF
ALBUQUERQUE

City Operator Permit Policy

Personnel Rules and Regulations

Section 1200

Effective: February 1, 2012

Human Resources Department

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Albuquerque, NM 87103

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TITLE DEPARTMENT OF FINANCE ADMINISTRATION SERVICES
CHAPTER Risk Management Division
PART City Operator Permit Policy

1. ISSUING AGENCY: Department of Finance and Administrative Services of the City of Albuquerque

2. SCOPE: Administrative Procedures governing City Operator Permits (COP).

3. STATUTORY AUTHORITY: ROA, 1994, § 2-15-1, et. seq., and § 14-3-5-16, § 3-1-1 et seq. (Merit System Ordinance), § 3-2-1 et seq. (Labor Management Relations Ordinance); § 2-8-2-2 (City Risk Management Ordinance).

4. DURATION: Permanent.

5. EFFECTIVE DATE: February 1, 2012, unless a later date is specified at the end of a section.

6. OBJECTIVE: To provide rules and regulations for the issuance, renewal, denial and revocation of City Operator Permits. The City Operator Permit Policy contained in this rule governs the operation of both City owned and privately owned vehicles when the vehicle is operated on official City business to maximize the safety of drivers, passengers and the public and to limit the City's financial risk posed by unsafe drivers. This rule and the regulations contained herein are not intended to cover the operation of other non-vehicular equipment. These regulations define the minimum acceptable standards for all City departments and all City Employees, Contractors and volunteers while driving on official City business. The regulations apply to all drivers and motor vehicles regardless of the type of vehicle driven or whether it is operated on or off road, on public or private property or roadways. Driving for the City is a privilege, not a right, and the City reserves the right to suspend or revoke a COP of a driver, in the opinion of the Risk Manager, or designee, poses an unacceptable insurance or safety risk. Nothing in these regulations effects or interferes with drivers' other obligations for state licensing, Commercial Driver's License requirements or the City's Substance Abuse Regulations.

7. RESPONSIBILITY FOR ADMINISTRATION: The Division of Risk Management shall be responsible for administering these rules and regulations.

8. DEFINITIONS: as used in this Rule the following definitions apply:

***A.* Accident (Vehicle Accident)** is any collision of a vehicle while operated on official City business involving another vehicle, stationary object, or person that results in property damage or injury, including accidents involving the failure to secure a parked vehicle or parking a vehicle in an unsafe manner.

B. Chief Administrative Officer (CAO) is the City's Chief Administrative Officer for the City of Albuquerque. References include that person's designee.

C. City is the City of Albuquerque, New Mexico, a municipal corporation.

D. City Operator Permit (COP) is a permit, and proof of insurance for City Owned Vehicles, issued by the Risk Management Division of the City's Department of Finance Administration permitting an individual, whether employee, contractor or volunteer, to drive a City-owned motor vehicle or a privately owned motor vehicle on City business.

E. Department Director is the director of the City department which employs or controls the work of a Operator or otherwise as the context of the paragraph dictates. References include that person's designee.

F. Driver (see "Operator") is the employee, contract employee or volunteer in actual physical control of the operation of a vehicle or the employee or volunteer who was last in physical control of a vehicle. This person is sometimes called the "Operator" or the "Vehicle Operator".

G. Driver Training Certification is a certification issued by the City's Fleet Safety Officer evidencing that the individual to whom the certification was issued has completed a Driver Safety Training course conducted by City staff, contract staff or another driving course deemed acceptable to the Fleet Safety Officer.

H. Drugs are, in the broadest sense, any and all substances, including alcohol and other substances that a person may take for medical, recreational or other reasons regardless of whether the substance is manufactured or natural chemical, legal or illegal, and regardless of whether prescribed by a physician or medical person, if such substance could impair a person's ability to drive safely. .

I, Fleet Safety Officer is the City employee designated by the City of Albuquerque Risk Manager to be responsible for managing the City Operator Policy as expressed in this Rule. References include that person's designee.

J. Incident of Operator Misconduct is conduct observed by any supervisor in the Operator's chain of command, the Fleet Safety Officer, his designee or a Safe Traffic Operations Program (STOP) device that, if observed by a law enforcement officer, would constitute a violation of any state or City traffic law.

K. Manager (Risk Manager) is the Manager of the Risk Management Division of the Department of Finance and Administrative Services, or its successor in the City's organizational chart, regardless of the name of such subdivision or department of the City. References include that person's designee.

L. Motor Vehicle (Vehicle) is any City or privately owned motor vehicle, recognized by state law as a motor vehicle, used for official City business.

M. Official City Business is any on-duty action taken by a City employee, contract employee or volunteer, on behalf of the City. Official City Business does not include commuting to and from a work-site before and after work hours. Additionally, employees who operate a take-home vehicle are subject to the COP Policy though they may not be on official business while commuting.

N. Operator is the employee, contract employee or volunteer in actual physical control of the operation of a vehicle or the employee, contract employee or volunteer who was last in physical control of a vehicle. This person is sometimes called the "Driver" or the "Vehicle Operator".

O. Preventable Accident is any accident involving a vehicle being operated on official City business which results in either property damage or personal injury or both, regardless of who was injured, what property was damaged, to what extent injury or damage occurred or where the accident occurred, in which the Operator in question failed to exercise every reasonable precaution to prevent the accident

P. Revocation of a COP is the removal of a Operator's COP for an indefinite period or a definite period as determined by the Fleet Safety Officer to be appropriate for the circumstances.

Q. State is the State of New Mexico unless the context suggests states in general.

R. STOP is a Safe Traffic Operations Program (STOP) device.

S. Suspension of a COP is the temporary removal of a Operator's COP by the Fleet Safety Officer pending a safety review or while awaiting adjudication of a traffic violation.

9. REQUIREMENT TO HAVE A CITY OPERATOR PERMIT: Any person operating a vehicle on City business is required to possess a valid City Operator Permit.

10. CITY OPERATOR PERMIT QUALIFICATIONS: To be eligible to be issued, retain, renew or reinstate a City Operator Permit (COP), an individual must:

A. Be an unclassified employee, classified employee, term employee, temporary employee, seasonal employee, contract employee or volunteer of the City;

B. Be at least eighteen years of age or older;

C. Have at least two continuous years of driving experience;

D. Have a valid, unexpired New Mexico driver's license of the appropriate classification and with the necessary endorsements for the vehicle(s) to be driven;

E. Have an Acceptable Driving Record as specified more fully as:

(1) Have no revocation of the New Mexico Driver License or any other government issued driver's license within the immediate previous three (3) years on record;

(2) Have no current driver license restriction requiring an ignition interlock device;

(3) Have no pending charges for Homicide or Serious Bodily Injury by Vehicle, Driving While Under the Influence of Alcohol or Drugs, or Reckless Driving or comparable charges issued by the State of New Mexico or any law enforcement agency either within or outside the State of New Mexico,

(4) Possess a current Driver Training Certification as determined by the Fleet Safety Officer;

(5) Be capable of passing and pass, at any time, upon request by the Fleet Safety Officer with or without cause, any required City of Albuquerque test or exam, including but not limited to, any physical or mental exam, vision test considered appropriate or reasonable by standards in the traffic safety industry as well as drug and alcohol screening test as required by the Substance Abuse Policy;

(6) Be unimpaired by alcohol or other drugs;

(7) Comply with any and all driver safety requirements established by the Fleet Safety Officer from time to time;

(8) Possess a valid State of New Mexico medical waiver as required by statute for any medical condition that could impair a person's ability to drive safely.

11. SAFETY AND FINANCIAL RISK. Because the provisions of this Rule are intended to minimize the liability of the City and the risk to the City, the public and the City employees,

A. The City reserves the right to refuse to issue, renew and to revoke a COP held by any person who fails or refuses to take any or all of these required examinations specified in this Rule.

B. The City reserves the right to make its determination regarding an Acceptable Driving Record by reference to the records maintained by the Motor Vehicle Division of the New Mexico Department of Taxation and Revenue (MVD) regarding citations and convictions of drivers licensed in the State of New Mexico, the records of the City of Albuquerque Risk Management Division and the records of any other applicable government entities. The records of such agencies are not subject to appeal or dispute except as provided herein.

12. RESPONSIBILITIES IN REGARDS TO THE CITY OPERATOR PERMIT RULE.

A. The Risk Manager Shall:

(1) Provide a Driver Safety Training Certification Program for City Operators.

(2) Maintain a City Operator's Permit Program for all Operators of motor vehicles while on official City business.

(3) Maintain statistical data on vehicular accidents involving motor vehicles while on official City business.

(4) Designate and supervise a Fleet Safety Officer or himself perform the duties of the Fleet Safety Officer.

B. The Fleet Safety Officer Shall:

(1) Implement and manage the City Operator Permit Policy on a day-to-day basis under the supervision and direction of the Risk Manager.

(2) Create the accident and incident reports, notices and other forms needed by the Fleet Safety Officer and the departments for the implementation of the City Operator Permit Policy.

(3) Review and annually report to the Risk Manager and City Executive Safety Committee on the effectiveness of the City Operator Permit Policy.

(4) Create programs for training investigators or safety officers to investigate accidents and driver misconduct and for training supervisors in identifying and deterring driver misconduct.

(5) Upon receipt from a department director of a City incident or accident report, a report of state driver's license suspension, revocation or listed citation or other evidence of driver unfitness, determine if, in the interests of safety, the Operator's COP should be suspended or revoked or whether the Operator can resume his driving responsibilities while the alleged incident is pending investigation or resolution of charges.

(6) Suspend the COP of any Operator who receives either an on or off-duty citation or arrest for Homicide or Serious Bodily Injury by Vehicle, Driving While Under the Influence of Alcohol or Drugs, or Reckless Driving or comparable charges issued by the State of New Mexico or any law enforcement agency either within or outside the State of New Mexico.

(7) Issue, suspend or revoke a Operator's COP and reinstate a COP when appropriate.

(8) Receive and investigate, when appropriate, citizen complaints of City Operator misconduct and forward citizen complaints to the proper department for investigation and appropriate action under the City's Merit System Ordinance, Personnel Rules and Regulations and Labor Management Relations Ordinance.

(9) Implement a procedure and schedule for the review of all City Operators' driving records that ensures:

(a) All Operators have their current New Mexico driver's license record from MVD reviewed at least once every seven (7) days to identify licenses that are "Revoked", "Suspended" or otherwise invalidated or restricted by MVD.

(b) All Operators use the exact name on their driver's license as appears in their personnel file and that the Human Resources Department is notified regarding any discrepancies between the name in the personnel file and on the driver's license. The Fleet Safety Officer will not verify that a COP holder is using the same name everywhere except as the issue arises with a particular individual.

(10)Carry out all other duties ascribed to the Fleet Safety Officer in this Rule promptly, efficiently and fairly.

C. The Department Directors Shall:

(1) Require that none of the Operators employed within their respective departments operate a vehicle in violation of City policy.

(2) Submit their requests for the issuance, renewal and other actions regarding COPs to the Fleet Safety Officer using the forms provided by the Fleet Safety Officer.

(3) Insure their respective departments' compliance with the City Operator Permit Policy and including but not limited to the periodic attendance at driver safety training classes by their Operators.

(4) Take appropriate action pursuant to the City's Merit System Ordinance and Personnel Rules and Regulations against employees and other authorized drivers and supervisors who violate their obligations under the City Operator Permit Policy.

(5) Require that department vehicles are adequately maintained and inspected for safe operation and unsafe vehicles are removed from service.

(6) Designate one or more department accident investigators/safety officers, and assure their training through the Fleet Safety Officer's training program. Assure that an investigator/safety officer investigates all vehicle accidents, supervisor reports of driver misconduct or unfitness for driving, or citizen complaints of erratic driving and assure that reports are submitted to the Fleet Safety Officer.

(7) Assure the training of their respective supervisors who supervise drivers through the Fleet Safety Officer's training program in identifying and enforcing against driver misconduct.

(8) Require that department records of all motor vehicle accidents and driver misconduct are reported to the Fleet Safety Officer using the Fleet Safety Officer approved accident reports and incident reports and maintained in the department for the minimum time period required by the Fleet Safety Officer or the appropriate records retention rule, whichever time period is greater.

(9) Upon receipt of a report from a supervisor or another person of a driver's arrest for or receipt of a listed citation, state license revocation or suspension, immediately notify the Fleet Safety Officer.

(10)Insure that all City-owned vehicles, within the control of the respective department, have affixed to the rear of the vehicle a sign identifying whom to call to report driver conduct. (Police and Fire emergency vehicles are not subject to this requirement).

(11)With the approval of the Fleet Safety Officer and CAO, create "good driver" incentive programs to encourage the safe operation of their drivers.

D. All Supervisors Shall:

(1) Require that drivers on official City business have in their possession a valid State of New Mexico driver's license and COP appropriate to the vehicle operated and require drivers to display such permits when requested.

(2) Assure that only authorized and qualified personnel are allowed to operate vehicles on official City business.

(3) Hold drivers accountable for unsafe driving practices and assure driving safety by not allowing a driver to drive if the driver may present a danger to himself, passengers or the public. A supervisor shall prevent a driver from driving on official City business when:

(a) Instructed to prohibit driving by the department director or the Fleet Safety Officer;

(b) The supervisor observes driver misconduct;

(c) The driver reports to the supervisor the revocation, suspension or loss of the New Mexico driver's license or COP or the receipt of any on or off-duty citation or arrest for Homicide or Serious Bodily Injury by Vehicle, Driving While Under the Influence of Alcohol or Drugs, or Reckless Driving; or

(d) The supervisor has a reasonable belief or "reasonable suspicion" that the driver is physically or mentally unfit to drive or does not have a current and valid medical waiver card, if required.

(4) Submit an incident or accident report no later than the end of their shift to the department director for incidents of driver misconduct, accidents, a driver's receipt of the above listed suspension, revocation or citations, or driver unfitness.

(5) Insure that a suspended or revoked driver is allowed to resume driving on official City business when the Fleet Safety Officer removes the suspension or revocation.

(6) Periodically ride with or observe the driving of the drivers under their respective supervision to assure an understanding of and compliance with operating instructions and traffic regulations.

(7) Remove unsafe City-owned vehicles from operation until safety discrepancies have been corrected.

(8) Recover the COP from terminated employees or other unauthorized drivers and return the permit through their department to the Fleet Safety Officer.

(9) Respond appropriately to reports of driver misconduct, citizen complaints or preventable accidents by counseling, monitoring, correcting driver behavior and directing drivers to attend formal training offered by the Fleet Safety Officer.

(10)The supervisor's responsibilities under the City Operator Permit Policy complement and are in addition to the requirements and duties under the City Personnel Rules and Regulations and City's Substance Abuse Policy.

E. All Operators shall:

(1) Inspect the vehicle to be driven for physical damage and perform a safety check (brakes, lights, horn, mirrors, etc.) before driving the vehicle and not drive any unsafe vehicle.

(2) Immediately report damage or mechanical problems verbally to the supervisor before driving the vehicle; any verbal report should be followed by a written report within one work-day of the event.

(3) Report to the supervisor all defects noted during usage. Vehicles developing steering or braking defects while in use shall not be driven and shall be immediately removed from the roadway and parked. The driver shall contact his supervisor who shall make arrangements to have the vehicle towed or repaired.

(4) Properly secure a parked vehicle by utilizing door locking mechanisms, parking brake, and chocks when deemed necessary.

(5) Wear safety-belts and require that all passengers wear safety-belts while operating a City vehicle or private vehicle on official City business.

(6) Learn and follow all traffic and vehicle safety laws and regulations of the state and City.

(7) Immediately report in writing and submit within one workday to their respective supervisors any change in the status of the driver's New Mexico Driver license.

(8) Immediately report in writing and submit within one workday to the respective supervisor of the revocation, suspension or loss of the Driver's New Mexico driver's license or City operator's permit or the receipt of any on or off-duty citation or arrest for Homicide or Serious Bodily Injury by Vehicle, Driving While Under the Influence of Alcohol or Drugs or Reckless Driving. (Receipt of a citation for one of the above charges will result in automatic suspension of the driver's COP, as per administrative instruction 4-14. An operator shall not drive a vehicle while on duty after receipt of the above listed violations until authorized by their supervisor.)

(9) Immediately report in writing and submit within one workday to their respective supervisors information regarding any medical or other condition affecting their ability to drive safely. All notifications shall be in writing and submitted within one workday of such date as the driver receives notification of citation, conviction, suspension, revocation, or cancellation.

(10)In the event of an accident while on official City business, immediately inform their respective supervisor and the police department by telephone or other appropriate means; any verbal report should be followed by a written report within one work-day of the event. .

(11)Cooperate with the City and law enforcement agencies in the investigation of any vehicular accident or incident in which the driver is involved or is a witness.

(12)No employee shall operate a vehicle on official City business without the appropriate license and permit classification.

13. CITY OPERATOR POINT SYSTEM (POINTS ASSESSMENT). The City shall utilize a point system to monitor the acceptability of a COP holder's driving record. All Operators are shall be subject to a safety review under the City Operator Point System.

A. The Fleet Safety Officer shall administer and maintain the City Operator Point System.

(1) The Fleet Safety Officer shall assess points against a driver's COP by assigning points for violations of traffic laws in accordance with official points assigned by New Mexico MVD.

(2) In addition, The Fleet Safety Officer may assess City points against a driver's COP as follows:

(a) Preventable accident, while driving on City of Albuquerque official business:

(i) Minor Preventable Accident.....minimum of 1 point

(ii) Major Preventable Accident.....minimum of 2 points

(b) For multiple Preventable Major Accidents within a 12 month period, the base points are multiplied, as assigned in 2 above, by the number of preventable accidents in that period.

(c) For both Major and Minor accidents, the Fleet Safety Officer may assign additional points when egregious violation of traffic laws or City policy have occurred, e.g. seat belts not in use or a traffic violation that contributes to the accident.

Accident	Base Point(s)
Non-Preventable	0
Minor Preventable	1 (or more)
Major Preventable	2 (or more)

(d) Incident of Operator Misconduct: Use the New Mexico MVD point system for the citation that could have been issued had the event been witnessed by law enforcement.

(e) All points are cumulative over the immediate preceding twelve (12) months and are applied to the City Operator's City driving record by the Fleet Safety Officer when either the state proceeding on the infraction is final or after the Fleet Safety Officer has assessed points upon completion of an accident or incident review.

(3) The Fleet Safety Officer shall revoke or suspend a Operator's COP as appropriate when the driver has accumulated twelve (12) or more points against the driver's COP under the City's Point System during the immediate previous twelve (12) month period.

(4) The Fleet Safety Officer may, at his discretion, revoke or suspend a Operator's COP as appropriate when the driver has accumulated nine (9) or more points against the driver's COP under the City's Point System during the immediate previous twelve (12) month period.

(5) If the driver receives a citation or charge of a criminal traffic violation in the state process, the Fleet Safety Officer shall either:

(a) Assign points to the driver's record upon the assignment of points by the state; or

(b) Consider the state citation to be an incident of driver misconduct.

(6) The Fleet Safety Officer may suspend the driver's COP, prior to assessing any points, pending final resolution of the state proceedings on a state infraction or during the investigation of any accident or incident.

B. Records of driver misconduct, license suspension or revocation or a preventable accident will remain in a driver's COP file and may be considered when driving privileges are in question.

C. The City Operator Point System described herein in no way negates the City driver's duty to inform his supervisor immediately upon receipt of any traffic violation or of any change in the Operator's license status.

14. CITY OF ALBUQUERQUE ACCIDENT AND INCIDENT REVIEW PROCESS. All vehicle accidents occurring on official City business will be reviewed to determine if the accident was preventable or non-preventable. All incidents of driver misconduct will be reviewed. The purpose of this policy is to establish standard procedures for all City committees that review and classify vehicle accidents and for the review of charges of driver misconduct by the Fleet Safety Officer as described in this rule. The primary focus of such reviews will be to reduce the frequency, severity and cost of accidents to the City.

A. Department Accident Review Committees.

(1) All departments shall establish accident review committees. The Fleet Safety Officer shall certify all department accident review committees. Departments with a small number of drivers will not be required to independently create an accident review committee, but may combine with other departments to form committees, as approved by the Fleet Safety Officer.

(2) The Departments, with the exception of APD and AFD, shall determine who reviews minor accidents. All Major accidents shall be reviewed by the Division of Risk Management.

(3) Departments shall investigate and classify all vehicle accidents occurring on official City business as minor or major pursuant to this policy as follows:

(a) Minor accident: All vehicle accidents which do not meet the criteria of "Major Accident" as defined in #2 below will be considered a "Minor Accident".

(b) Major accident: An occurrence associated with operation of a vehicle on City business that results in any of the following:

(i) An individual dies

(ii) An individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident

(iii) One or more vehicles suffer disabling damage as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle. For purposes of this definition, disabling damage means damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated.

(iv) Disabling damage does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights turn signals, horn, mirrors or windshield wipers that makes them inoperative.

(4) Every vehicle accident will be reviewed to determine whether it was preventable or non-preventable on the part of the City driver. This determination will be made using the "National Safety Council Guidelines for Determining Motor Vehicle Collision Preventability" (NSC Guidelines) and the accident investigation report(s). This review process will be conducted as follows:

(a) Minor accidents are reviewed by the Departmental Accident Review Committee.

(b) Major accidents are reviewed by the Fleet Safety Officer. Departments shall submit all major accident documentation, (i.e. investigation reports, photographs, statements, etc.) to the Fleet Safety Officer. The Fleet Safety Officer's determination concerning preventability is reported to the department director or his/her designee.

(i) The APD Accident Review Committee will review all accidents involving APD vehicles. The Fleet Safety Officer or his/her designee will serve as a voting member of this Committee.

(ii) All accidents involving APD or AFD vehicles that occur during emergency code response will be reviewed by the respective department's accident review committee.

(iii) The results of every departmental accident review committee determination concerning preventability are reported to the Fleet Safety Officer. The report to the Fleet Safety Officer will include the date of loss, name and employee ID of the driver, the title of the applicable NSC Guideline, and the determination of preventability.

(5) Following the review process described above, all preventable accidents may result in points being assigned against the driver's COP as described in this rule.

(6) Incidents of suspected driver misconduct shall be investigated by the department investigator/safety officer or the Fleet Safety Officer. At the conclusion of the investigation the Fleet Safety Officer will determine whether misconduct occurred and if the assessment of points is necessary. In review of misconduct cases, the Fleet Safety Officer may review a driver's complete driving record in determining what, if any, points should be levied against the driver. Incidents involving APD and AFD code responses will be handled as described in this rule.

(7) When a State traffic citation has been issued, the Fleet Safety Officer may review the alleged violation and may either wait for a state adjudication of the citation to assess points or may investigate the citation prior to a State adjudication of the citation. The Fleet Safety Officer shall decide if the citation should be considered an incident of misconduct. If the Fleet Safety Officer chooses to wait for State adjudication, the matter may still be reviewed as an incident of misconduct if the State dismisses the matter without a decision of whether the alleged violation occurred. The same number of points will be assessed for the State violation when reviewed as an incident of misconduct as the State would assess on the State license, and points shall not be assessed twice on the same incident.

(8) A citizen report of improper or unsafe driving by a City driver shall not constitute an instance of driver misconduct unless the conduct was witnessed by a City supervisor, safety officer or accident investigator. The driver's supervisor shall review all citizen reports of improper or unsafe driving. All drivers and their departments will be informed of the citizen report. The department shall on each report determine if the report is supported by reliable evidence of driver misconduct the department shall monitor the driver's driving to determine if the driver is a safety risk.

B. Special provisions for the Police (APD) and Fire (AFD) Department Accident Review Committees:

(1) All accidents involving APD or AFD vehicles that occur during emergency code response will be reviewed by the respective department's accident review committee.

(2) The APD will review all of its vehicle accidents internally.

(3) The Fleet Safety Officer or designee shall serve as a voting member of the APD committee.

C. Fleet Safety Officer Review. The Fleet Safety Officer shall review major accidents and all incidents of driver misconduct.

(1) When a state traffic citation has been issued, the Fleet Safety Officer shall review the alleged violation and may either wait for a state adjudication of the citation to assess points or may investigate the citation prior to a state adjudication of the citation. The Fleet Safety Officer shall decide whether event prompting the citation should be considered an incident of misconduct. If the Fleet Safety Officer

chooses to wait for state adjudication, the matter may still be reviewed as an incident of misconduct if the state dismisses the matter without a decision of whether the alleged violation occurred. The same number of points will be assessed for the state violation when reviewed as an incident of misconduct as the state would assess on the state license, and points shall not be assessed twice on the same incident.

(2) A citizen report of improper or unsafe driving by a City driver shall not constitute an instance of driver misconduct unless the conduct was witnessed by a City supervisor, safety officer or accident investigator. Upon receipt of the citizen report citizen of improper or unsafe driving, the Fleet Safety Officer shall inform the driver and supervisors involved of the citizen report of improper or unsafe driving and the Fleet Safety Officer shall refer the report to the driver's supervisor for further review. The department shall on each such citizen report determine whether the report is supported by reliable evidence of driver misconduct the department shall monitor the driver's driving to determine if the driver is a safety risk and shall further report to the Fleet Safety Officer as the department director and the Fleet Safety Officer deem appropriate.

15. CITY JOB APPLICANT DRIVING RECORD CHECK PROCEDURE. When any City of Albuquerque position is being filled for which driving is necessary to perform an essential element of the job duties, no applicant shall receive an offer of employment if the applicant does not qualify for a COP. Prior to an offer of employment, the driving record of the final applicants under consideration shall be reviewed by the Fleet Safety Officer or the Human Resources Department. This rule applies to full-time, contract, temporary and seasonal employees and volunteers. The following procedure shall be implemented:

A. All requirements for positions for which driving is necessary to perform the job shall be identified prior to the job announcement;

B. All applicants for such positions shall be notified on the job announcements of the City's standard driver requirements and policy;

C. The Fleet Safety Officer shall evaluate the record, as described below, and advise the Human Resources Department whether the applicant qualifies for a COP:

(1) The applicant will be evaluated per the qualifications in this document.. The Fleet Safety Officer shall compare the applicant's driving history to the City standards as set forth in this rule for the issuance of a COP to ensure that the applicant meets that standard. If an applicant does not meet the COP requirements, they will not be considered eligible for a job for which driving is necessary to perform the job.

16. DRIVER/OPERATOR TRAINING PROGRAM. A driver training program for new employees or other authorized drivers who have applied for a COP and periodic refresher training for existing employees holding a COP is mandatory. The following shall be included in any such training:

A. Orientation, description and purpose of the training;

B. Social and economic costs of traffic accidents;

C. Causes of traffic accidents;

D. Physical, mental and emotional effects on reaction time and judgment;

E. Mechanical limitation and vehicle inspections;

F. Defensive driving techniques;

G. Procedure to follow when involved in an accident and filing of accident report form;

H. Procedures for vehicle malfunctions or other emergencies, and

I. The City Operator Permit Policy.

17. VEHICLE/EQUIPMENT OPERATOR'S RECORD. The Risk Management Division shall maintain a record on each driver which shall include: department assigned, date of permit, date of most recent Operator Safety Course, employee or affiliate identification number, physical limitations, accident history, class of license and COP Request Form (COPR), and history of suspensions and revocations.

18. VEHICLE ACCIDENT REPORTING PROCEDURE.

A. Vehicle Accident Reporting Procedure – all drivers

(1) Any driver involved in a motor vehicle accident, while operating a vehicle on official City business, shall immediately call the police and the driver's supervisor or his department investigator to the scene.

(2) The driver shall not leave the scene until the police have completed their investigation. If the police do not investigate at the scene, the driver should make a report at the police station or as directed by his supervisor.

(3) The driver shall not discuss the accident with anyone except the police, the supervisor, legal counsel or an adjuster or other investigator assigned by the Risk Management Division.

(4) The department investigator shall investigate the accident and report the findings to the Fleet Safety Officer or department accident review committee in compliance with this rule.

(5) Department directors shall require that vehicle accident reports be promptly submitted to the Fleet Safety Officer or department accident review committee in compliance with this rule.

B. Vehicle Accident Reporting Procedure – holder of Commercial Driver's License. In addition to the provisions in the section above, all holders of a Commercial Driver's License shall comply with any additional requirements of the Federal Transit Administration and the Department of Transportation.

19. COMMERCIAL DRIVER'S LICENSE REQUIREMENTS.

A. The Federal Transit Administration, through the Department of Transportation, issues regulations establishing uniform criteria and classifications for obtaining commercial class motor vehicle operating licenses (CDL). The State of New Mexico has adopted these criteria and operator license classifications. Consequently, all shall to conform to these federal and state requirements. This rule sets forth the procedure for obtaining and maintaining a valid commercial class operator license as a condition to perform duties as an employee of the City.

B. If holding a CDL is necessary to perform essential job functions of a driver's position and the driver cannot qualify for a CDL, the Department Director should refer the situation to the Human Resources Department for appropriate resolution.

C. Additional Responsibilities of the Supervisors of CDL Drivers, who shall:

(1) Not permit or direct a City employee to operate a vehicle on official City business without the appropriate commercial class operator's license (CDL) issued by the MVD as well as a City Operator's Permit.

(2) Whenever a supervisor has knowledge that a supervised Operator does not have a current, valid and appropriate commercial class operator's license (CDL), shall immediately prohibit the CDL driver from operating any vehicle requiring a CDL and shall notify the department director.

(3) Upon notification that the CDL of an employee under his supervision is expiring and requires renewal, shall contact the appropriate person in the Human Resources Department to request and initiate an in-service physical examination be scheduled and then notify the CDL Operator of the time and place of the scheduled physical examination. Further, the supervisor shall adjust the work schedule of the CDL Operator to accommodate sufficient time to permit the CDL Operator to complete the required examination(s).

(4) Shall require that the CDL Operator present his certification card indicating that the CDL Operator has successfully completed the required physical examination and substance abuse test, prior to authorizing the CDL Operator to proceed to the MVD to take the written examination for renewal of the commercial class operating license.

D. Additional Responsibilities of a CDL Operator. In addition to all other requirements of holders of COPs, a CDL Operator shall:

(1) Assure that he has the valid class of driver's license and the valid COP appropriate to the vehicle being operated.

(2) On or about the first working day of the month in which a CDL Operator's current commercial class operator license or endorsement is to expire, notify his immediate supervisor of the necessity to renew the license and COP.

(3) Upon notification by the supervisor, report to a facility selected by the City and submit to a physical examination and substance abuse tests that shall be administered in accordance with the applicable United States Department of Transportation (DOT) regulations and requirements as specified in the Federal Motor Carrier Safety Regulations, Part 391, Subpart E, as well as any other applicable federal and state laws or regulations. (If the CDL Operator does not successfully complete these examinations and tests, his supervisor will be notified and the CDL Operator will be given further instructions pursuant to the City's personnel ordinance and rules and regulations).

(4) After successfully completing all physical examinations and substance abuse tests,

(a) Follow his supervisor's instruction to proceed to the MVD;

(b) Upon successfully completing any required written examination, the CDL Operator will be issued a commercial class license assuming all other criteria established by MVD have been met.

(c) On the next working day, present the license to his immediate supervisor for verification that the CDL Operator has completed all requirements and has obtained the appropriate commercial class operator's license.

(5) If the CDL Operator, in the opinion of the MVD, does not pass the written examination, report this fact to the immediate supervisor for further instructions regarding the required skills test administered by the MVD and any corrective measures.

(6) If, for any reason, the CDL Operator does not successfully obtain the appropriate commercial class license within the renewal month, report this fact to his immediate supervisor.

(7) Notify, in writing, the CDL Operator's immediate supervisor of any of the following occurrences:

(a) Any citation or arrest for violating, in any type of motor vehicle, a state or local law relating to motor vehicle traffic control (other than a parking violation);

(b) Any expiration, suspension, revocation or cancellation of the commercial class operator's license.

(8) Notify the MVD of all such occurrences outside the State of New Mexico.

(9) Comply with all applicable DOT regulations whether or not those regulations are enumerated in this policy including any requirements concerning obtaining and keeping a current and valid medical card and the requirements concerning performing and properly documenting pre and post-trip inspection reports.

20. USE OF PERSONAL VEHICLE FOR CITY BUSINESS.

A. The use of an employee's personal vehicle to conduct official City business is discouraged when a City vehicle is available to the employee. A personal vehicle may only be driven on City business when the driver holds a valid COP in addition to a state License. If a driver loses his COP, the driver may no longer drive on official City business.

B. Employees who utilize their personal vehicle for City business will be reimbursed for mileage upon submitting both a properly approved request for reimbursement and a copy of proof of insurance for the vehicle driven. Proof of insurance shall be a copy of either the declarations page of the insurance policy or a copy of the insurance card carried in the vehicle.

C. No personal vehicle shall be driven by an employee to conduct City business unless the requirements regarding financial responsibility as set forth by state statute are met.

(1) For most employees, the requirement is fulfilled by carrying liability insurance.

(2) Employees are not required by statute to purchase insurance if they have demonstrated to the state the capability of meeting the financial responsibility requirements. However, the City will require that an employee provide documentation from the state indicating that the requirement has been met.

(3) The City does not require a driver to purchase insurance beyond that minimally required by the state. However, the City does not provide uninsured or underinsured motorists, collision, towing, or comprehensive coverages for the use of a personal vehicle by a driver conducting official City business.

D. Employee's Insurance Is Primary Insurer. The insurance carrier providing liability coverage for the driver's vehicle shall be the primary insurer for any incident in which an employee drives his personal vehicle. Should the limits of the policy be insufficient, the City, may if otherwise appropriate, provide secondary coverage for liability to third parties.

E. Employees who frequently drive their personal vehicle for City business shall notify their insurance carrier of the business use of the vehicle and secure the appropriate endorsement to the policy.

21. SUSPENSION AND REVOCATION OF COP.

A. Discretionary Suspension:

(1) The Fleet Safety Officer may take the Operator's entire record into consideration when deciding whether to suspend a COP. The Fleet Safety Officer may suspend a COP when:

(a) The Fleet Safety Officer is reviewing a report of a state license suspension, revocation, or listed citation from the State of New Mexico or other jurisdiction;

(b) A driver is being investigated for an accident or incident of driver misconduct;

(c) A driver is being tested for reasonable suspicion of drug or alcohol use under the Substance Abuse Policy;

(d) A driver is being examined for either his physical or mental fitness to drive;

(e) The Fleet Safety Officer has any reasonable belief that the safety of the driver or the public is otherwise at risk if the person continues to drive.

(2) Decisions made under this "Discretionary Suspension" section may be appealed to the Chief Administrative Officer of the City.

B. Mandatory Suspension:

(1) The Fleet Safety Officer shall suspend the COP of any City Operator immediately upon notification that the Operator has received a charge of Homicide or Serious Bodily Injury by Vehicle, Driving While Under the Influence of Alcohol or Drugs or Reckless Driving as per Administrative Instruction 4-14.

(2) The suspension shall continue until the Fleet Safety Officer determines that either the Operator's COP should be restored or revoked.

(3) The Operator has accumulated excessive points under the City's point system;

C. Revocation: The Fleet Safety Officer shall revoke the COP of an Operator when:

(1) The Operator does not have a valid New Mexico license of the correct type, with the necessary endorsements, to drive the vehicle intended for the Operator's use;

(2) The Operator has been disqualified by the Fleet Safety Officer because of a physical or mental condition making the Operator unfit to operate any vehicle on official City business;

(3) The Operator receives a restriction on the Operator's state-issued driver license which will require modification of the vehicle related to a DUI charge.

22. REINSTATEMENT OF COP

A. A City employee, contract employee or volunteer whose COP has been suspended may, at the request of the department, have the COP reinstated if the driver's point total falls below ten (10) points or if the Fleet Safety Officer determines that their COP should not be revoked.

B. A City employee, contract employee or volunteer whose COP has been revoked may, at the request of the department, have the COP reinstated if the conditions of for the issuance or renewal of a COP are met.

C. The Fleet Safety Officer will evaluate the employee's or volunteer's full driving record, when making the decision of whether to restore the employee's driving privileges. Reinstatement of a COP shall be at the sole discretion of the Fleet Safety Officer based on the driving record of the applicant and physical or mental condition that may prevent them from driving for the City again.

D. If holding a COP is necessary to perform essential job functions of a driver's position and the driver cannot qualify for a COP, the Department Director should refer the situation to the Human Resources Department for appropriate resolution.

E. If an employee believes that any information that has a bearing on the denial of the issuance, renewal or revocation of a COP is inaccurate, by way of example, but not limitation, that the MVD record pertains to another individual and not to the applicant, the employee must submit a written notice of the dispute with all relevant information to Fleet Safety Officer within five (5) days of the date on the written denial. The Fleet Safety Officer shall review the employee's dispute and, as appropriate, investigate the information provided by the employee within thirty (30) days of receiving the notice of dispute. The Fleet Safety Officer shall then promptly notify the department representative whether the information provided in the dispute notice changed the Fleet Safety Officer's decision regarding the issuance of the COP. If the decision of the Fleet Safety Officer is not in favor of the employee's receiving a COP, the employee may request an informal meeting with the Fleet Safety Officer and the Risk Manager or the CAO in an effort to demonstrate that the requested COP should be issued, renewed, or not revoked based on the information in the official records, so long as such request is within ten (10) days of the Fleet Safety Officer's decision. No further appeals are permitted. Thereafter, the department director may submit an application for the employee in the normal course of business, but may not re-apply for a COP more frequently than once every six (6) calendar months beginning on the date of the last written denial by the Fleet Safety Officer.

23. APPLICABILITY OF THIS RULE

A. Every City employee operating a motor vehicle during the course of his employment, or supervising persons operating such motor vehicles, shall abide by this rule pertaining to City Operator Permits. Failure of a vehicle operator or supervisor to follow any aspect of this rule regarding the City Operator Permit Policy is just cause for discipline, up to and including termination.

B. Prior Policy. Individuals who had a City Operators Permit prior to the enactment of this revised policy will have the points on their permit returned to zero and not be subject to the revocation requirement in the Acceptable Driving Record qualification. The City, however reserves the right to use prior incidents to evaluate whether or not an individual should have a City Operators Permit.

24. FAILURE TO COMPLY WITH THIS RULE.

B. Failure to comply with this Rule shall be referred by the Division of Risk Management to the Department for appropriate action.

24. SEVERABILITY.

The invalidity or unenforceability of any provision of this policy shall not affect any other provision hereof, and the policy shall be construed in all respects as if such invalid of unenforceable provision was omitted.